

CDO No. CCC-11-CD-03 and RO No. CCC-11-EO-02
V-5-09-008

CCC Hearing, April 14, 2011
Agenda Item 17.3 & 17.5

Presentation by the City of Newport Beach

[1965 Historical Aerial]



[1972 Historical Aerial]



[1974 Historical Aerial]



[1987 Historical Aerial]



1991 Historical Aerial



July 2006 CCC Approval of LUPA to Zone Property for active/passive park

STATE OF CALIFORNIA - THE RESOURCES AGENCY

Arnold Schwarzenegger, Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

June 29, 2006



IMPORTANT PUBLIC HEARING NOTICE CITY OF NEWPORT BEACH LUP AMENDMENT NPB-MAJ-01-06 (PART B)

HEARING DATE AND LOCATION:

DATE: Wednesday July 12, 2006
TIME: 10:00 AM
PLACE: Catamaran Resort Hotel
3999 Mission Boulevard
San Diego, CA 92109

ITEM NO. W136
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH

JUL 01 2006

AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

AMENDMENT DESCRIPTION AND STAFF RECOMMENDATION:

Part B of the Land Use Plan (LUP) amendment consists of a request by the City of Newport Beach to allow a land use redesignation from Medium Density Residential to Open Space at 4850 West Coast Highway, Newport Beach. (Part A of the amendment will be heard separately.) This property is known locally as "CalTrans West". The new land use designation would allow the development of an active or passive public park on the existing 14.25-acre lot. The lot is currently vacant and covered with ruderal grasses and a mix of native and non-native shrubs. The site consists of two relatively level plateaus that sit above street level and gradually descend from north to south.

Commission staff recommends that the Commission **APPROVE** the proposed City of Newport Beach Local Coastal Program Amendment 1-06 Part B as submitted. A more complete description of the staff recommendation is contained in the staff report which may be viewed on the Commission's web site at <http://www.coastal.ca.gov/mtgcurr.html> or you may view or request a copy of the report from the Commission's Long Beach office.

CCC Findings from 2006 LUPA

Site Description and Land Use Designation

The proposed land use redesignation will affect only one lot—4850 West Coast Highway in the City of Newport Beach, Orange County. The site is located at the northwest corner of the intersection of Superior Avenue and West Coast Highway, on the inland side of the highway (Exhibit 4). The subject lot is 14.25 acres and is currently designated Medium Density Residential (RM-B) in the City's Certified Land Use Plan, as depicted in Exhibit 5. The site is a vacant parcel made up of two plateaus elevated at least 20-40 feet above street level. The lot is covered with ruderal grasses and a mix of native and non-native shrubs. Surrounding development consists of multi-family residential to the north and vacant uncertified land (Banning Ranch) to the west. The site fronts on both Superior Avenue and Coast Highway.

The site is located on an inland lot approximately ¼ mile from coastal waters. The property is made up of two elevated plateaus that offer blue water views above the intervening development across Pacific Coast Highway. As such, this a prime site for increased public recreational and viewing opportunities. It is the City's intent to acquire the property from Caltrans and eventually develop it as an active recreation and view park.

The Commission finds that approval of the Land Use Plan amendment will not result in significant adverse environmental impacts under the meaning of the California Environmental Quality Act. In addition, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for significant adverse environmental impacts which have not been explored.

December 2006: City Acquisition of Caltrans Property for \$5 Million

CONFORMED COPY
Not Compared with Original

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

State of California
DEPARTMENT OF TRANSPORTATION
Caltrans - District 12
Office of Right of Way
3337 Michelson Drive Suite CN380
Irvine, CA 92612-1699

Atttn: R/W Excess Lands

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

2006000813583 10:10am 12/05/06

106 33 D10 8
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00

Map No.: E120010-15
RWPE: C. SMYTHE (01/04/01)
Written: CS Check: DO

Space above this line for Recorder's Use

DIRECTOR'S DEED

District	County	Route	Post	Number
12	Orange	1	19.7	DD 040766-01-01

NO FEE

NOV 14 2006

The STATE OF CALIFORNIA, acting by and through its Director of Transportation, does hereby grant to the _____ City _____ of _____ Newport Beach _____

all that real property in the _____ City of Newport Beach _____ County of _____ Orange _____, State of California, described as:

Parcel No. DD 040766-01-01

That portion of Lot 1 of Tract No. 463 in the City of Newport Beach, County of Orange, State of California as shown per a map filed in Book 32, Pages 2 and 3 of Miscellaneous Maps in the office of the County Recorder of said county; that portion of Lot 1 of Tract No. 2250 as shown per a map filed in Book 104, Pages 6 and 7 of said Miscellaneous Maps; that portion of Melrose Mesa (Tract No. 15) as shown on a map filed in Book 9, Page 19 of said Miscellaneous Maps; that portion of Lot D of the Banning Tract, as shown on a map of said tract filed in the case of Hancock Banning, et al. vs. Mary H. Banning for partition, and being Case No. 6385 upon the Register of Actions of Superior Court of Los Angeles County, California, bounded as follows:

Bounded northeasterly by the northeasterly line of the lands described as Parcel 1 of State Parcel No. 40767 in a Grant Deed recorded February 14, 1966 in Book 7839, Page 739 of Official Records in the office of the County Recorder of Orange County, California;

December 2006 Acquisition of Caltrans Property – Deed Restriction for Active Park Use of Property

PARCEL 040766-3

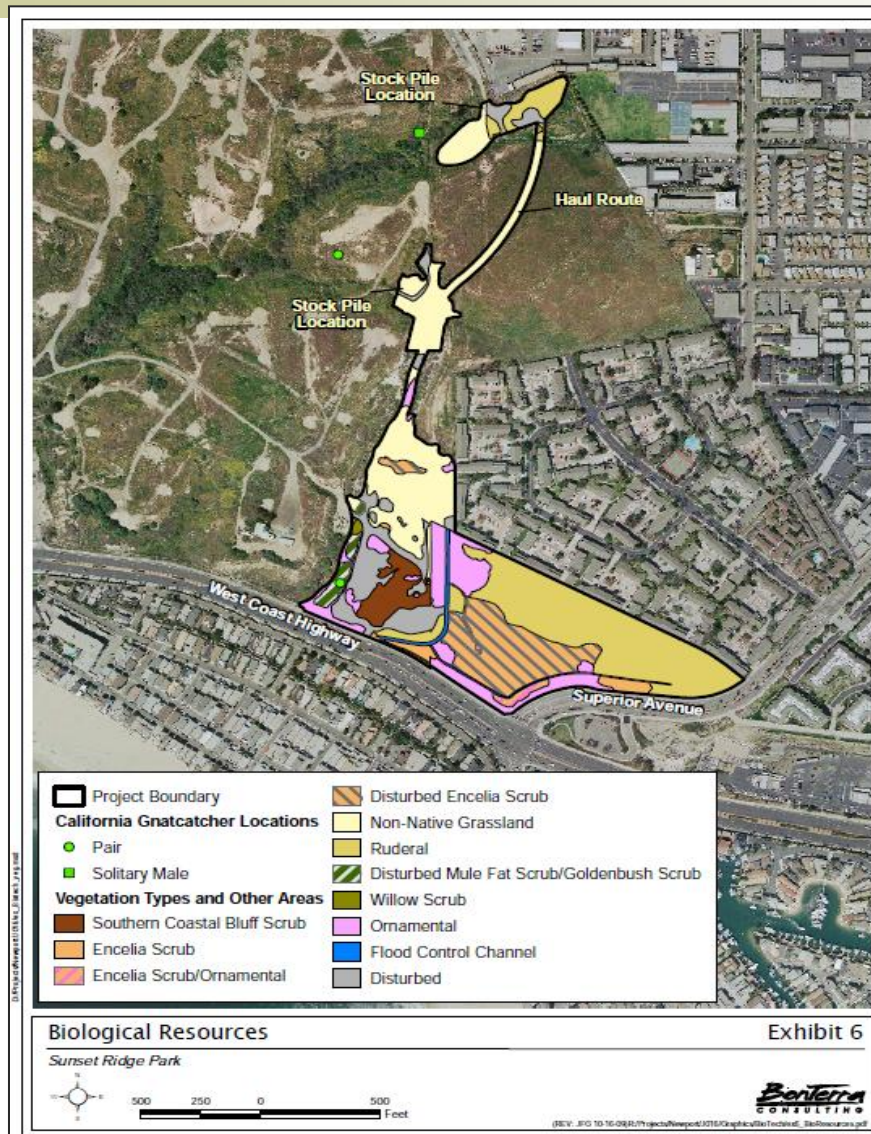
RESERVING UNTO THE GRANTOR AN EASEMENT FOR SCENIC VIEW AND OPEN SPACE PURPOSES OVER THE AFOREMENTIONED PROPERTY, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF LOT 3 OF TRACT NO. 7817, PER MAP FILED IN BOOK 308, PAGES 33 AND 34 OF MISCELLANEOUS MAPS, IN SAID OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WITH A LINE PARALLEL WITH AND DISTANT 100.00 FEET WESTERLY OF THE WESTERLY LINE OF SAID LOT 3; THENCE ALONG SAID PARALLEL LINE, S00°19'10"W 505.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE N71°14'04"E 254.46 FEET TO A POINT ON A LINE PARALLEL WITH AND DISTANT 263.60 FEET SOUTHWESTERLY OF SAID SOUTHWESTERLY LINE OF SAID LOT 3; THENCE ALONG SAID PARALLEL LINE S62°13'53"E 838.20 FEET TO A POINT ON THE NORTHERLY LINE OF "NEW" SUPERIOR AVE AS DESCRIBED IN A DOCUMENT RECORDED MAY 6, 1993 AS INSTRUMENT NO. 93-0304175 OF SAID OFFICIAL RECORDS.

EXCEPTING THEREFROM THAT PORTION OF SUPERIOR AVENUE AS DESCRIBED IN SAID DOCUMENT RECORDED MAY 6, 1993 AS INSTRUMENT NO. 93-0304175 OF SAID OFFICIAL RECORDS.

GRANTEES USE OF SAID EASEMENT AREA SHALL BE LIMITED TO THOSE "PERMITTED" USES UNDER GRANTEE'S ZONING DESIGNATION OPEN SPACE - ACTIVE AS DEFINED UNDER TITLE 20 OF GRANTEE'S ZONING CODE AS IT EXISTED ON OCTOBER 12, 2006. ADDITIONALLY THE GRANTEE IS PROHIBITED FROM PLACING PERMANENT STRUCTURES OR PAVEMENT WITHIN THE EASEMENT AREA, AND NO PARKING OF MOTORIZED VEHICLES SHALL BE PERMITTED WITHIN THE EASEMENT AREA.

2009 BonTerra Biological Assessment



BonTerra Biological Assessment

Coastal Sage Scrub

Coastal sage scrub has declined by approximately 70 to 90 percent in its historic range in California (Noss and Peters 1995). It has largely been lost to land use changes in Southern California basins and foothills. It also supports many special status plant and wildlife species. The ecological function in Southern California's remaining coastal sage scrub is threatened by habitat fragmentation, invasive non-native species, livestock grazing, off-highway vehicles, altered fire regime, and perhaps air pollution (O'Leary 1995). Coastal sage scrub vegetation types on the Project site that meet the definition above include southern coastal bluff scrub and areas of Encelia scrub that are adjacent to other areas of high to moderate biological value. These special status vegetation types total 1.42 acres. The 3.64 acres of disturbed Encelia scrub is regularly mowed for fuel modification and weed abatement purposes and contains a high percentage of non-native weeds; therefore, it is not considered special status. In addition, two small areas of scrub (0.26 acre of Encelia scrub and .21 acre of Encelia scrub/ornamental) are not considered special status because of their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete v-ditch under the shrubs, presence of trash, and proximity to high foot/bicycle, and vehicle traffic.

The proposed Project would impact approximately 0.26 acre of Encelia scrub, 0.21 acre of Encelia scrub/ornamental, and 3.64 acres of disturbed Encelia scrub. Impacts on these vegetation types are not considered significant because of their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete v-ditch under the shrubs, presence of trash, proximity to high foot/bicycle, and vehicle traffic, and are not expected to support gnatcatchers during the nesting season. Therefore, no mitigation would be required.

[EIR]

- No comments received in mid-2009 from CCC in response to Park Initial Study and NOP for EIR



DRAFT ENVIRONMENTAL IMPACT REPORT SUNSET RIDGE PARK PROJECT

2.3.2 CEQA SCOPING

In compliance with the CEQA Guidelines, the City has taken steps to provide opportunities for public participation in the environmental process. An IS and NOP were distributed on May 7, 2009, to federal, State, regional, and local government agencies and interested parties for a 30-day public review period to solicit comments and to inform the public of the proposed Project. The Project was described, potential environmental effects associated with Project implementation were identified, and agencies and the public were invited to review and comment on the IS and NOP. A copy of the IS, NOP, and responses received are included in Appendix A. The following parties provided comments on the NOP to the City:

Federal Agencies

None

State Agencies

California Department of Conservation, Division of Oil, Gas, and Geothermal Resources
California Governor's Office of Planning and Research, State Clearinghouse and Planning Unit

Regional Agencies

South Coast Air Quality Management District

131 Kaimos Drive, Suite E-200
Costa Mesa, California 92626

October 2009

First Notice of Alleged Violation in mid-2009

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceanside, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



July 29, 2009

Michael A Mohler
Newport Banning Ranch
1300 Quail Street, Suite 100
Newport Beach, CA 92660

RE: Alleged unpermitted removal of major vegetation from the Newport Banning Ranch property, including, but not limited to Assessor Parcel No.s 114-170-83, 424-041-04, 424-041-10 (City of Newport Beach property), and 114-170-43.

Dear Mr. Mohler:

As staff noted to you at a June 9 meeting with Newport Banning Ranch representatives, during the course of review of photographs of the Newport Banning Ranch site, staff viewed evidence of what appears to be unpermitted development activity on the site. The development in question consists of removal of major vegetation, including coastal bluff and riparian scrub species, and native grass, as well as placement of solid material (staging of construction materials) within areas cleared of major vegetation.

"Development" is defined in the Coastal Act Section 30106, in relevant part, as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure...the removal of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...

In addition to supporting coastal bluff and riparian scrub plant communities - communities of native plants that are significant both as collections of native plant species and for the wildlife habitat they provide - the three areas described below and depicted on Exhibits 1 and 2 are in close proximity to documented Coastal California Gnatcatcher nesting sites, a federally threatened bird species, and thus the ecological function of these three vegetation areas, in addition to their species make-up, justifies the designation of major vegetation. The removal of coastal bluff and riparian scrub species, and native grass, constitutes removal of major vegetation, and as such, meets the definition of development.

Newport Banning Ranch
July 29, 2009
Page 2 of 2

that spanned much of the upland portion of the site. Also on Exhibit 3 is a ground-level photograph of the mower's swath and a close-up of native grass just outside the mower's swath. The development described above occurred within the coastal zone in an area subject to the Commission's original coastal development permit jurisdiction. Section 30600(a) of the Act requires that any person wishing to perform or undertake development in the coastal zone must obtain a coastal development permit, in addition to any other permit required by law. Our records do not indicate that a coastal development permit has been issued for the above-referenced development. Any development activity conducted in the coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act.

If the subject development is authorized by a valid coastal development permit, or if you have any other information related to the unpermitted development described above, please let us know as soon as possible. Please contact me at our Long Beach office, either in writing at the above address, or at (562) 590-5071, to discuss resolution of this matter and to schedule a site inspection by no later than August 13, 2009.

Thank you for your cooperation.

Sincerely,

Andrew Willis
District Enforcement Analyst

cc: Debby Linn, City of Newport Beach
Sherilyn Siro, Deputy Director, CCC
Teresa Henry, South Coast District Manager, CCC
Karl Schwing, Orange County Planning Supervisor, CCC
Pat Veasart, Southern California Enforcement Supervisor, CCC

Sunset Ridge Park Project



Sunset Ridge Park Planting Concept

[Conclusion]

- Aerials illustrate historical site disturbance and clearance by Caltrans during its ownership spanning several decades.
- CCC Approved in 2006 an LUPA for the zoning of the subject property for an active park.
- City's biological consultants advised of no ESHA on property in 2007.
- CCC Staff failed to provide comments on any ESHA concerns when Park Initial Study and NOP provided to CCC for review in 2009.
- Alleged unpermitted grading and vegetation clearance on the subject 0.2 acres occurred prior to City's acquisition of the property from Caltrans in Dec. 2006.